

**Testimony of Mr. Gary Donahue
Before the Energy and Commerce Committee
Subcommittee on Oversight and Investigations**

“Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track
Injury Insurance and Other Health and Welfare Issues”

October 18, 2005

I became a jockey in August of 1980. I became a guild representative in 1982. A Guild Representative is a Jockey who represents other jockeys in front of the Racing Stewards, for such things as having his number taken down for interference in a race, among other things. I rode for 7 years until I was injured in a race March 1, 1986 at Suffolk Downs. I rode in New York, New Jersey, Florida, Massachusetts, and New Hampshire. I rode 800 to 1000 mounts a year. I was hurt several times in the course of 7 years, for instance, a broken collar bone, broken jaw, cracked ribs, broken right hand, besides breaking my back at the T56 level. From 1986 to 1990 I competed in marathon wheelchair racing throughout the world. From 1990 to the present I play in tennis tournaments. I also snow ski, water ski and I bike 40 to 50 miles a week.

In 2001 I was asked by Mike McCarthy and the new management to oversee the Disabled Jockey Fund as CO-Chairperson, my duties were to respond to letters, e-mails, and phone calls from permanently disabled, (*not temporarily disabled*) jockeys. Their requests could vary from needing a wheel chair, to medical supplies, to having their bills and taxes taken care of etc. If someone needed DME (durable medical equipment) I would inquire around the country to get the best price possible to help save the Disable Riders Fund money. Then I would contact the Jockey’s Guild Co Chair Person, Jamie Hall, she would then relay it to Albert Fiss, and Wayne Gertmenian. They would then allocate the money from the Disabled Riders Fund. This is the same Fund John Giovanni started in 1990 with \$100.00 of his own money. In 2001 the amount in the fund was \$1,327,083. The money almost doubled ever year from 1997 to 2001, which was very good. That all came to a halt when John Giovanni was kicked out of the Guild. I became concerned after I learned that the money in the account would be gone at the end of 2004.

I found out about this on line by reviewing the 2003 financial report. There was a statement on the form that Wayne Gertmenian signed, that the fund would no longer exist at the end of 2004. This was after months of asking the Guild to send me records of how much was in that account. As Co-Chairperson I needed to know the state of the account and how much was being spent.

I also learned that the fund was being used for Temporarily Disabled Jockeys. The fund was set up for permanently disabled riders only. For instance in my situation. I became paralyzed from a horse racing accident. I am permanently disabled, although I was considered temporary for the first 104 weeks by Guild standards. After that your deemed permanently disabled. In a situation like mine, John Giovanni knew that I was permanently disabled and would never ride again even though I was in the temporary category according to the Guild. John used money from the disabled riders fund to help me with my DME needs. He would do that for other critically injured jockeys. But for jockeys that broke a collar bone or arm or leg the Disabled Riders Fund was not to be used for them what so ever.

I asked Wayne Gertmenian and Albert Fiss many times why they were using the Disabled Riders Fund to help temporarily disabled jockeys. Albert Fiss told me that the board of directors voted to use the Disabled Jockeys Fund for temporarily disabled riders. He gave me four names of jockeys on the board that voted for this change. Chris McCarron, Mike McCarthy, Robert Colton, and Kent Desormeaux. I spoke to all four of these board members and I was told the vote never took place. Therefore I knew Albert Fiss lied to me about the vote. I was always told by Albert Fiss and Wayne Gertmenian that I should not be concerned with these matter, so from then on I started to gather my own information by reviewing Form LM-2 Labor Organization Annual Reports 2001 thru 2003. On those forms I was able to review what the Guild was reporting for expenses. In the LM-2 Reports, I saw expenses on an incline, not a little but a lot. That's when I started asking Gertmenian and Fiss about different expenses. As a guild member I have every right to ask these questions. I do not know what "Additional Supporting Services" and "Promotion of Racing" are, but as a Guild Member I have every right to know what these expenses are and whom they are being paid to. We are talking hundreds of

thousands of dollars of the Jockey's money. Any time during John Giovanni's tenure, if a jockey had a question about the Guild finances they would do what ever they could to comply with the request.

2001 LM-2 Form states the Guild spent \$346,294.00 for Additional Supporting Services and \$263,904 for Promotion of Racing. I asked to review the receipts for those expenses. I was not given that information. I also requested to see the receipts for the Office & Administrative Expense for 2001 in the amount of \$176,472. Once again the same answer. I should not be concerned with that matter.

2002 LM-2 Form states the Guild spent \$408,895.00 for Additional Supporting Services and \$434,189 for Promotion of Racing and also Office Administrative Expense of \$349,905.00

2003 LM-2 Form states the guild spent \$ 770,520.00 for Additional Supporting Services and \$ 412,000 Promo of Racing and \$ 328,407 for Office & Administrative Expenses.

So from 2001 to 2003 those expenses were alarming in the amount of \$2,635,803.00 for Additional Supporting Services and Promo of Racing \$854,784.00 for Office & Administrative Expenses. I was not receiving any help from the Guild as to why these expenses have jumped from 2001 thru 2003. So I decided to become involved in the Law Suit against the Jockey Guild concerning these expenses and the downfall of the Disabled Jockey Fund. After the Guild learned that I joined the Law Suit against them I was fired as CO-Chairperson of the Disabled Jockey Fund. Ironically a month prior to being fired in December of 2004 Wayne Gertmenian, Albert Fiss, and Tomey Swan told me that I was doing a great job and that I had saved the Jockey's Disabled Riders Fund thousands of dollars. A month later I was fired.

In closing I would like to say that as a Jockey or a Disabled Jockey I have every right to ask about the expenses of the Jockey's Guild Management. They work for the jockeys. The Jockeys Guild Management has a fiduciary duty to manage our money, it's not there money.

Gary W. Donahue